

Message Text

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TO AMEMBASSY BONN

INFO AMEMBASSY BERLIN

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E.O. 11652: N/A

TAGS: EAIR, GW

SUBJECT: CIVAIR - PAN AM COMMISSION RATES

REF : STATE 57955

"FOLLOWING IS A REPEAT

QUOTE

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FM SECSTATE WASHDC

E.O. 11652: N/A

TAGS: EAIR, UK

SUBJECT: CIVAIR - PAN AM COMMISSION RATES

REF : STATE 201994

1. IN VIEW FAILURE OF INFORMAL US-UK DISCUSSIONS TO MAKE
PROGRESS ON ISSUE OF PAN AM COMMISSION RATES, AND NEGATIVE
REACTION OF UKDOT'S BROWN TO DRAFT PAN AM REPLY TO AUG 11
LETTER, DEPT BELIEVES IT WOULD BE USEFUL TO GET US VIEW
TO UK AUTHORITIES ON PAPER BEFORE DOT REACTS TO REPLY IN
FINAL FORM. (IN DISCUSSION WITH CORNING, PAN AM UK REP,
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BROWN REPORTEDLY STATED ONLY USG CAN SPEAK WITH AUTHORITY

IN OPPOSITION TO UK ACTIONS VIS-A-VIS PAN AM.)

2. DEPT THEREFORE REQUESTS, IN ORDER ACCOMPLISH THIS OBJECTIVE WITHOUT GETTING BRITISH HACKLES UP UNNECESSARILY, THAT UNLESS EMBASSY SEES OBJECTION CAA COLWELL SEND LETTER TO ROGERS OF DOT ALONG FOLLOWING LINES:

A. IN CONNECTION WITH YOUR FURTHER CONSIDERATION OF THE PROBLEM OF COMMISSION RATES, AND PARTICULARLY THE DEPT OF TRADE'S STANCE IN THE CASE OF PAN AMERICAN AIRWAYS, IT APPEARS USEFUL TO PUT INTO WRITING SOME ELEMENTS OF MY GOVERNMENT'S POSITION AS EXPRESSED TO YOU ORALLY BY DEPUTY ASSISTANT SECRETARY WALDMANN IN WASHINGTON.

B. AS YOU KNOW, WE AGREE THAT ESCALATING COMMISSION RATES, PARTICULARLY WHEN PAID UNDER THE TABLE, ARE A REAL PROBLEM, AND AS WE SEARCH FOR A MEANS OF DEALING WITH THE PROBLEM IN THE UNITED STATES WE CAN ONLY APPLAUD YOUR EFFORTS TO DEAL WITH IT IN GREAT BRITAIN. HOWEVER, WE CANNOT COUNTENANCE ACTION AGAINST PAN AM GROWING OUT OF COMMISSIONS IT MAY PAY OUTSIDE THE UNITED KINGDOM. SUCH AN ACTION WOULD BE AN UNACCEPTABLE ATTEMPT TO EXERCISE BRITISH SOVEREIGNTY EXTRATERRITORIALLY OVER PRIVATE BUSINESS ARRANGEMENTS BETWEEN NON-BRITISH ENTERPRISES. IT WOULD VIOLATE THE AIR SERVICES AGREEMENT. PRACTICALLY, GENERAL ACCEPTANCE OF YOUR VIEW WOULD MEAN THAT AIRLINES MIGHT HAVE TO COMPLY WITH OVER ONE HUNDRED CONFLICTING REGULATIONS AT ONCE. WE ALSO FAIL TO UNDERSTAND HOW THE UK COULD ADEQUATELY ENFORCE SUCH A REGULATION WITH RESPECT TO SALES OUTSIDE THE UK AND THUS FEEL THAT PAN AM IS BEING ASKED TO COMPLY WITH AN ORDER WHICH CANNOT BE ENFORCED EFFECTIVELY AGAINST AIRLINES IN GENERAL, WHOSE PERMITS HAVE NOT BEEN VARIED.

C. FURTHERMORE, WE CANNOT AGREE THAT PAN AM SHOULD BE DISCRIMINATED AGAINST FOR HAVING BROUGHT THE PROBLEM OUT INTO THE OPEN. AND, IN OUR VIEW, THE VARIATION OF PAN AM'S PERMIT ALONE, WITH THE INCREASED PENALTIES THAT MAY BE IMPOSED FOR VIOLATING THE VARIED PERMIT, LIMITED OFFICIAL USE

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CONSTITUTES DISCRIMINATION. YOUR DEPARTMENT'S NOTICE TO OTHER AIRLINES, WHILE A WELCOME EARNEST OF ITS INTENTIONS IS NOT AN ACTUAL AMENDMENT OF THEIR PERMITS, AND THEREFORE LEAVES THEM RELATIVELY PROTECTED FROM SERIOUS IMMEDIATE PENALTY. KISSINGER UNQUOTE KISSINGER

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